

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ALOFT MEDIA, LLC,

Plaintiff,

v.

YAHOO! INC., *et al.*,

Defendants.

Case No. 6:08-CV-255 (LED)

STIPULATION REGARDING DISMISSAL OF SBC INTERNET SERVICES D/B/A

AT&T INTERNET SERVICES

Plaintiff Aloft Media, LLC (“Aloft”), Defendant SBC Internet Services d/b/a AT&T Internet Services (“AT&T”), and Defendant Yahoo! Inc. (“Yahoo!”), collectively referred to as the “Parties,” hereby stipulate to the following pursuant to Federal Rule of Civil Procedure 29:

1. Yahoo! and AT&T stipulate that Yahoo! alone developed the AT&T Yahoo! Browser, the product accused by Aloft to infringe the '443 and '691 patents in this lawsuit;
2. Yahoo! and AT&T stipulate that all revenues generated from the AT&T Yahoo! Browser are collected by Yahoo!;
3. Yahoo! and AT&T stipulate that pursuant to an agreement between Yahoo! and AT&T, Yahoo! pays a percentage of its revenues generated from the AT&T Yahoo! Browser to AT&T;
4. Yahoo! and AT&T stipulate that AT&T does not generate any revenues from the AT&T Yahoo! Browser, other than the payments provided by Yahoo! pursuant to the agreement between Yahoo! and AT&T;

5. Yahoo! stipulates that it will not rely, in any way, on the fact that AT&T is not a defendant in this case for purposes of establishing or contesting liability against Yahoo! or for purposes of assessing damages against Yahoo!;

6. AT&T agrees to produce a deposition witness and documents sufficient to confirm that AT&T generates no revenue from the AT&T Yahoo! Browser, other than the payments provided by Yahoo! pursuant to the agreement between Yahoo! and AT&T, if requested by Aloft;

7. AT&T otherwise agrees to produce discoverable documents and to provide witnesses to give discoverable testimony as requested by Aloft so long as Aloft reasonably meets and confers with AT&T about the appropriate scope of such discovery for any other purpose related to this litigation (as of the date of this Stipulation, Aloft has no present intention of seeking any other discovery from AT&T);

8. Yahoo! agrees and stipulates that it will not move to transfer this case to another venue;

9. Yahoo! also agrees and stipulates that the dismissal of AT&T does not alter the scope of the accused product(s) or otherwise affect, in any way, the other issues of fact or law in this case;

10. Based on the representations by AT&T and Yahoo! , Aloft agrees that it will dismiss AT&T with prejudice as to all claims brought against it in this lawsuit;

11. Based on the representations by AT&T and Yahoo!, the Parties will file a stipulation or motion with the Court pursuant to Rule 41(a) requesting a dismissal with prejudice of AT&T from this lawsuit;

12. AT&T will not receive an express or implied license relating to the '443 or the '691 patents;

13. AT&T shall retain its right to assert all defenses and/or claims in the event of any further litigation between it and Aloft, or any entity related to Aloft or its principals;

14. Aloft (including any other entity related to Aloft or its principals) shall retain its right to assert patent rights as to any Aloft patents other than the '443 and/or the '691 patents as well as any other cause of action against AT&T; and

15. Aloft and AT&T shall bear their own costs and attorneys' fees as to one another in this litigation.

Dated: May 26, 2009

Respectfully submitted,

/s/ Eric Albritton (by permission Deborah Race)

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**Attorneys for Defendant SBC
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CERTIFICATE OF SERVICE

This is to certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on the 26th day of May, 2009. Any other counsel of record will be served via electronic mail or facsimile transmission.

/s/ Deborah Race
Deborah Race